Supreme Court, U.S.
FILED
AUG 27 2001
CLERK

No. 99-1572

In The

Supreme Court of the United States

WILLIAM H. VIEHWEG,

Petitioner,

v.

SUSAN H. MELLO,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eighth Circuit

RESPONDENT'S BRIEF IN OPPOSITION

NOCE & BUCKLEY, L.L.C.
GERARD T. NOCE
Counsel of Record
515 Olive Street, Suite 800
St. Louis, MO 63101-1839
Phone: (314) 621-3434
Fax: (314) 621-3485

Counsel for Respondent

SUSAN H. MELLO
7751 Carondelet, Suite 403
St. Louis, MO 63105
Phone: (314) 721-7521
Fax: (314) 863-7779

Respondent Pro Per

COCKLE LAW BRIEF PRINTING CO., (800) 225-6964
OR CALL COLLECT (402) 342-2831

44 pp

QUESTION PRESENTED

Whether an attorney who has been duly admitted to practice before the United States District Court for the Eastern District of Missouri and the Eighth Circuit Court of Appeals violates 28 U.S.C. § 1654 by entering her appearance as co-counsel for herself to cover the uninsured punitive damages when she is also simultaneously represented by retained counsel that was hired by her professional liability insurance carrier and where no harm has been alleged for such entry, as only one Motion for Summary Judgment and the appellate brief were submitted on her behalf as a party.

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STATEMENT OF THE CASE

In 1997, William H. Viehweg, Petitioner, filed a claim against Susan H. Mello, Respondent, in the United States District Court for the Eastern District of Missouri (hereinafter "Eastern District") contending that she breached a duty to him where, in compliance with her duty under Federal Rule of Civil Procedure 11, she informed him that she would not be able to file a lawsuit on his behalf. The claim was turned over to Ms. Mello's professional liability carrier who selected the Moser & Marsalek law firm to represent her insurable interests. Where Missouri law provides that it is against public policy for an insurance company to provide coverage to insure against punitive damages claims, in conjunction with insurance defense counsel, in April, 1997, Ms. Mello entered her appearance as co-counsel with the Moser & Marsalek law firm. Mr. Viehweg challenged her entry, which was denied and thereafter he did not include the challenge in the appeal.

Although Ms. Mello entered her appearance as co-counsel with the law firm of Moser & Marsalek, most of the filings were done in joint names, including the Motion for Summary Judgment. The only duplicitous motion that was filed occurred in September, 1997, when Moser & Marsalek filed a Motion to Compel, where Ms. Mello had already submitted one in July, 1997. Only one such motion was taken up, however, and only one set of orders was issued.

In December, 1999, where there were issues as to upcoming depositions and the discovery deadline had passed, the court ordered a status conference to address these and other issues. At that conference, when Mr.

Viehweg again brought up the issue of Ms. Mello's entry of appearance, he was told by the court that Ms. Mello had full rights to represent herself. Specifically, Judge Mummert stated:

> Ms. Mello has the right, Mr. Viehweg, to represent herself. She has a right to represent herself whether she's a lawyer or not a lawyer, but the fact that she is a lawyer doesn't preclude her from being an attorney . . . So, your Motion to strike her as an attorney and all the **frivolous** motions you've filed about that, and all the cases, denied.

(Viehweg's Petition App. at A4- Pre-trial Status Conference (emphasis added)).

At that conference, the court also entered protective orders for Ms. Mello that Mr. Viehweg not contact her directly.

During the district court proceedings, Mr. Viehweg was allowed to conduct all necessary discovery. His interrogatories were answered by Ms. Mello, without having to file a Motion to Compel. Although Ms. Mello requested and per the judge's order she was allowed police protection and a Commissioner at her deposition, Mr. Viehweg was given a full opportunity to depose Ms. Mello, which was the only deposition taken in this case.

Prior to her deposition, Ms. Mello jointly filed a Motion for Summary Judgment with co-counsel from the law firm of Moser & Marsalek in November, 1997. In December, 1997, while awaiting Mr. Viehweg's Response to her Motion for Summary Judgment, the law firm of Moser & Marsalek was replaced by the law firm of

Brinker & Doyen, whose entry of appearance was also attacked by Mr. Viehweg. Once Mr. Viehweg had filed his Response, Ms. Mello and Brinker & Doyen jointly filed a Reply and, in May, 1998, the court granted summary judgment. (Viehweg's Petition App. at A23 – A39- District Court's Judgment and Order).

When Mr. Viehweg appealed, he did not include any mention of the prior orders and instead appealed only the summary judgment order. Accordingly, he did not include the orders denying his motions to disqualify Ms. Mello as co-counsel in the Notice of Appeal.

After Ms. Mello filed her entry of appearance in the Eighth Circuit, Mr. Viehweg also attacked it. The Eighth Circuit denied his motions on the same. Mr. Viehweg petitioned this Court for a writ of mandamus and/or prohibition, No. 98-467, which was denied. (Viehweg's Petition App. at A8- Denial of Prior Petition).

In November, 1998, the law firm of Brinker & Doyen filed a brief with the Eighth Circuit. Where the brief contained various misstatements and Ms. Mello was granted leave to file a replacement brief in order to correct these errors, she did so the same week as the initial brief. Mr. Viehweg in doing his Reply Brief replied only to the replacement brief. Ms. Mello's submissions in her name alone were made only until new insurance co-counsel, Noce & Buckley, entered their appearance in December, 1998.

The appeal was decided without oral arguments and on October 18, 1999, the Eighth Circuit, in a *per curiam*, unpublished opinion sustained the determination of the

district court that summary judgment was proper. (Viehweg's Petition A1- Eighth Circuit Opinion).

In the meantime, Mr. Viehweg also filed a St. Louis County Circuit Court action to attack Ms. Mello's entry in the federal courts which was denied and appealed. Mr. Viehweg also attacked Ms. Mello's entry in the Missouri Court of Appeals. The Missouri Court of Appeals, applying Missouri law, held the entry was proper, which Mr. Viehweg did not appeal.

Mr. Viehweg's Petition for Writ of Certiorari does not involve the underlying claim, the summary judgment ruling, or the Eighth Circuit decision sustaining it. Petitioner is apparently seeking review by this Court only of the Eighth Circuit Court of Appeals' denial of Petitioner's motions to disqualify Respondent, a duly admitted attorney to the Eastern District and Eighth Circuit bars, from acting as co-counsel for herself where Mr. Viehweg sought punitive damages, which, under Missouri public policy, are not insurable.

In none of Mr. Viehweg's previous motions regarding Ms. Mello's entry of appearance has he alleged or shown any harm. (Viehweg's Petition App. at A13 – A19 (setting forth one example of his numerous motions regarding this issue)). In point of fact, the Motion for Summary Judgment was jointly filed in one name and there was only one appellate brief (with her replacement brief submitted the same week as the initial brief). He filed only one reply brief. There was no denial of any due process or discovery rights suffered by Mr. Viehweg.

REASONS FOR DENYING THE WRIT

Mr. Viehweg's Petition for Writ of Certiorari should be denied. The issue presented in Mr. Viehweg's Petition, whether Ms. Mello's entry of appearance as co-counsel (in order to protect her personal and uninsurable interests where Mr. Viehweg sought punitive damages not covered by her professional liability policy) violates 28 U.S.C. § 1654, does not present any error or involve a conflict between prior Eighth Circuit rulings.

The issue presented by Mr. Viehweg does not involve any conflict between the appellate circuit courts or involve a ruling by the lower courts that, "has so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of this Court's supervisory power . . . " Supreme Court Rule 10(a).

The cases cited by him instead demonstrate no violation of 28 U.S.C. § 1654 occurred in the lower courts and no error was committed by these lower courts.

Additionally, Mr. Viehweg has never alleged or stated and cannot show any harm occurred as a result of Ms. Mello's entry of appearance. This issue was not even properly presented to the Eighth Circuit where it was never included in Mr. Viehweg's Notice of Appeal.

Mr. Viehweg's assertion that Ms. Mello's joint entry of appearance with retained co-counsel violates 28 U.S.C. § 1654 is completely unfounded and unsupported by the case law. Section 1654 states:

> In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts,

> respectively, are permitted to manage and conduct their cases therein.

Id.

The courts that have addressed the question have held that a party representing themselves while also being represented by retained counsel is permissible. Although it may not be an absolute right, the statute and case law have left this determination to the sound discretion of the judge overseeing the proceeding. Mr. Viehweg has not alleged or shown any abuse of that discretion.

This principle has been recognized by the Eighth Circuit in *Brasier v. Jeary*, 256 F.2d 474 (8th Cir. 1958), *cert. denied*, 79 S.Ct. 97 (1958), where it held that district courts have broad control over its own proceedings and that federal judges have the "power and responsibility . . . to govern and control" the conduct of the parties and the proceedings before them. *Id.* at 477 (*citing Herron v. Southern Pacific Co.*, 51 S.Ct. 383, 384 (1931)). Specifically addressing the power of federal judges to allow a litigant to proceed pro se and also be represented by counsel, the Eighth Circuit held such a decision "comes clearly within the discretionary power of a trial judge to control and regulate the orderly procedure of the trial." *Id.* (citations omitted). As it stated, the decision:

> rests squarely with the trial judge, who bears the responsibility for the orderly conduct of the trial, and an appellate court should not interfere with the trial court's exercise of that discretion.

Id. at 478. *See also U.S. v. Swinton*, 400 F. Supp. 805 (S.D.N.Y. 1975) (*citing Lee v. Alabama*, 406 F.2d 466 (5th Cir. 1968), *cert. denied*, 89 S.Ct. 1787 (1969); *U.S. v. Conder*,

423 F.2d 904, 908 (6th Cir. 1970), *cert. denied*, 91 S.Ct. 357 (1970); *U.S. v. Dellinger*, 472 F.2d 340 (7th Cir. 1972), *cert. denied*, 93 S.Ct. 1443 (1973); *U.S. v. Klee*, 494 F.2d 394 (9th Cir. 1974), *cert. denied*, 95 S.Ct. 62 (1974); and, *Overholser v. DeMarcos*, 149 F.2d 23 (D.C. Cir. 1945), *cert. denied*, 65 S.Ct. 1579 (1945)).

Indeed, Mr. Viehweg's own cases confirm the right of the courts to allow simultaneous pro se and counsel representation with multiple submissions. While Mr. Viehweg cited *Brasier v. Jeary*, 256 F.2d 474 (8th Cir. 1958), *cert. denied*, 79 S.Ct. 97 (1958); *U.S. v. Agofsky*, 20 F.3d 866 (8th Cir. 1994); *Hoggard v. Purkett*, 29 F.3d 469 (8th Cir. 1994); and *Wayne v. Benson*, 89 F.3d 530 (8th Cir. 1996), they do not support his position. Rather, in *Hoggard*, supra, although the court cited to a general court policy not to consider pro se filings when these litigants are also represented by counsel, the court noted that this is not a hard and fast rule. The Eighth Circuit there "permitted Hoggard to file a pro se supplemental brief" and "gratuitously considered [it] . . . " even though he was also represented by counsel. *Id.* (citations omitted). Similarly, in *Wayne*, the Eighth Circuit again allowed a pro se party to submit a brief while also being representing by counsel. The court stated, "Wayne also submitted a pro se brief along with the brief submitted by his appointed counsel in his appeal to this court. This court granted leave to file this brief, although generally we do not . . . " *Id.* (citations omitted).

Here, there is no error or harm. Instead, there was only one, jointly submitted Motion for Summary Judgment in the district court and only one replacement brief was filed by Ms. Mello in the Eighth Circuit, which was

by leave of the court. Mr. Viehweg filed only one Reply brief to the replacement brief. Mr. Viehweg did not contend and cannot show that he was in any way prejudiced by the replacement brief.

Mr. Viehweg's First Amended Complaint alleged, *inter alia*, intentional torts and sought punitive damages, which, if damages were awarded on these claims, would not be covered under Ms. Mello's insurance policy. Missouri courts have specifically held that such damages cannot be covered by liability insurance as contrary to public policy. *Easley v. American Familiy Mutual Ins., Co.*, 847 S.W.2d 811, 811 (Mo. Ct. App. 1992) (citations omitted). Accordingly, this case essentially involved two, distinct interests – Ms. Mello's insured interest and her uninsured interest. As such, the lower courts correctly permitted Ms. Mello to enter as co-counsel, particularly to properly protect against any damage awards that would not be covered by her insurance carrier.

While Mr. Viehweg's petition also contains references to Missouri case law as governing the procedural issue regarding an attorney's entry of appearance, this is contrary to the *Erie* doctrine and its subsequent line of cases. *See also Wayman v. Southard*, 23 U.S. 1 (Wheat) (1825). While these cases are not controlling on this issue, Mr. Viehweg's interpretation of them is not even correct.

In any event, as he seeks to ignore, a Missouri court has already made a ruling against him. Mr. Viehweg took this very issue to the Missouri Court of Appeals on the same kind of entry by Ms. Mello. It ruled that even in the Missouri Court of Appeals, under Missouri law, Ms. Mello could properly enter her appearance as co-counsel

while also being represented by the counsel who was hired by her professional liability insurance carrier. Mr. Viehweg should be barred from reasserting this claim. This is especially so where he did not appeal the Missouri Court of Appeals' decision.

Additionally, as Mr. Viehweg admits, Judge Mummert also told him that *Reed v. Labor and Industrial Relations Committee*, 789 S.W. 19 (Mo. banc 1990) and the other cases he has cited do not concern or involve a person's pro se rights. (Viehweg's Petition App. at A4- Pre-trial Status Conference). Instead, they concern only whether a corporation, an artificial body, can represent itself, with the court in *Reed* discussing, at length, the distinction between a corporation and a human being, which the court defines as a "natural person". *Id.*

Mr. Viehweg's other claims are baseless and not properly before the Court. While Mr. Viehweg's Petition makes allusions to "constitutional" violations and a violation of Federal Rule Appellate Procedure 34(a)(2), he did not raise any such contentions with the district court and omitted them from his question presented.[1]

---

[1] Mr. Viehweg did not properly submit these as questions for review to the Court and, thus, they should not be considered. Supreme Court Rule 14(1)(a) states, "[o]nly the questions set out in the petition, or fairly included therein, will be considered by the Court." Additionally, Supreme Court Rule 14(1)(f) requires, "[t]he constitutional provisions, treaties, statutes, ordinances, and regulations involved in the case, set out verbatim with appropriate citation." Mr. Viehweg's mention of only 28 U.S.C. § 1654 and, therefore, any assertions or arguments relating to any other matters included in his petition should not be considered.

There is also no basis to any claim of interference with any discovery. It was not raised in his brief to the Eighth Circuit or in the Motion for Summary Judgment. He did not file for any stay or relief under Federal Rule of Civil Procedure 56. Instead, Mr. Viehweg was given all leeway for discovery, replies, and the benefit of every doubt. As evidenced by the district court's docket sheet, (Brief in Opp. App. at A1-A28), Mr. Viehweg was given a full opportunity to develop and uncover the facts in this matter before summary judgment was correctly granted, including a lengthy deposition of Ms. Mello.

CONCLUSION

As set forth above, Mr. Viehweg's Petition for Writ of Certiorari should be denied. Mr. Viehweg's analysis of the statute in question and case law is completely wrong and he lacks a genuine and proper basis to assert his claim. There is no harm alleged, nor did any in fact occur. The issues mentioned in his petition are not properly before the Court and, accordingly, these issues should not be considered.

Respectfully submitted,

NOCE & BUCKLEY, L.L.C.

GERARD T. NOCE
Counsel of Record
515 Olive Street, Suite 800
St. Louis, MO 63101-1839
Phone: (314) 621-3434
Fax: (314) 621-3485

Attorney for Respondent

AND

SUSAN H. MELLO
7751 Carondelet, Suite 403
St. Louis, MO 63105
Phone: (314) 721-7521
Fax: (314) 863-7779

Respondent Pro Per

APPENDIX

TERMED APPEAL
FULCON TRCK 2
7/98J

U.S. District Court
Eastern District of Missouri (Eastern)

CIVIL DOCKET FOR CASE #: 97-CV-211

Viehweg v. Mello
Assigned to: Mag Judge Thomas C. Mummert
Demand: $75,000
Lead Docket: None
Dkt# in other court: None

Cause: 28:1332 Diversity-Fraud

Filed: 02/10/97

Jury demand: Plaintiff
Nature of Suit: 370
Jurisdiction: Diversity

WILLIAM H. VIEHWEG
plaintiff

v.

SUSAN H. MELLO
defendant

William H. Viehweg
[COR LD NTC] [PRO SE]
114 W. Second Street
Mt. Olive, IL 62069
217-999-5061

Joseph H. Mueller
[term 12/02/97]
314-421-5640 fax
[COR LD NTC]
Brian R. Plegge, Partner
[term 12/05/97]
314-421-5640 fax
[COR LD NTC]
MOSER AND MARSALEK, P.C.
200 N. Broadway
Suite 700
St. Louis, MO 63102-2730
314-421-5364
FTS 421-5640

Susan H. Mello
314-863-7779 fax
[COR LD NTC]
7751 Carondelet
Suite 403
St. Louis, MO 63105
314-721-7521

Scott C. Harper
[term 11/17/99]
314-863-8197 fax
[COR LD NTC]
BRINKER AND DOYEN
120 S. Central
Suite 700
Clayton, MO 63105
314-863-6311
FTS 863-8197

Gerard T. Noce
314-621-3485 fax
[COR LD NTC]
NOCE AND BUCKLEY
515 Olive Street
Suite 800
St. Louis, MO 63101-1839
314-621-3434
FTS 621-3485

GRACE E. FUENTES
movant

Grace E. Fuentes
[COR LD NTC]
[PRO SE]
125 N. Main Street
Suite 207
St. Charles, MO 63301
636-949-8677
FTS 925-2499

LLOYD J. VASQUEZ, JR.
movant

Lloyd J. Vasquez, Jr.
[COR LD NTC]
[PRO SE]
13100 Thornhill Drive
St. Louis, MO 63131
314-821-9050

2/10/97	1	COMPLAINT; # Summons Issued: 1 # Days to Respond: 20 # Counts; 3 # Consents: 2; jury demand (aeh) [Entry date 02/11/97]
2/10/97	2	TRACK INFORMATION STATEMENT filed by plaintiff William H. Viehweg; track 2 preferred (aeh) [Entry date 02/11/97]
2/10/97	3	RECEIPT # s97-002640 in the amount of $ 150.00 for civil filing fee (aeh) [Entry date 02/11/97]
2/10/97	4	NOTICE OF PRIVATE PROCESS SERVER; Process Server: Georgianna Lorenz (aeh) [Entry date 02/11/97]
2/18/97	5	NOTICE OF PRIVATE PROCESS SERVER; Process Server: Allied Intelligence (replacing Georgianna Lorenz) (kms) [Entry date 02/25/97]
3/3/97	6	RETURN OF SERVICE executed upon defendant Susan H. Mello on 2/19/97 by personal service by serving Susan Mello with attached memo (jwj) [Entry date 03/04/97]
3/14/97	7	MOTION by defendant Susan H. Mello to dismiss plaintiffs complaint for failure to state a claim with memo of law in support of its motion to dismiss plaintiffs complaint (jwj) [Entry date 03/17/97]
3/17/97	8	MOTION with exhibits 1-3 attached by plaintiff William H. Viehweg for issuance of alias summons, for order appointing USMS as process server (lsd) [Entry date 03/18/97]

3/24/97	9	ORDER by Mag Judge Thomas C. Mummert denying motion for issuance of alias summons as moot [8-1] (cc: all counsel) (jwj) [Entry date 03/26/97]
3/25/97	10	MEMORANDUM by plaintiff William H. Viehweg in opposition to motion to dismiss plaintiffs compliant for failure to state a claim [7-1] (jwj) [Entry date 03/26/97]
3/26/97	11	RULE 16 ORDER by Mag Judge Thomas C. Mummert; standard(2) track,; Rule 16 Conference 4/16/96 at 8:30 in Courtroom 8-C; joint scheduling plan ddl 4/9/97; Magistrate Consent Due ddl 4/9/97 (cc: all counsel) (llw) [Entry date 03/28/97]
3/28/97	12	REPLY in support by defendant Susan H. Mello to response to motion to dismiss plaintiffs complaint for failure to state a claim [7-1] (llw) [Entry date 04/01/97]
4/1/97	13	AMENDED COMPLAINT by plntf William H. Viehweg; # Counts: 3 [1-1] (kms) [Entry date 04/02/97]
4/1/97	14	FULL CONSENT has been rec'd by plntf (2/18/97) & deft (4/1/97) (kms) [Entry date 04/04/97]
4/9/97	15	JOINT PROPOSED SCHEDULING PLAN by plaintiff William H. Viehweg, defendant Susan H. Mello (llw) [Entry date 04/14/97]
4/10/97	16	ATTORNEY APPEARANCE as co-counsel for defendant Susan H. Mello by Susan H. Mello (llw) [Entry date 04/14/97]

4/14/97	17	MOTION by defendant Susan H. Mello to dismiss amended complaint, for judgment on the pleadings, to strike prayer for damages w/Memo of Law in Support (llw) [Entry date 04/15/97] [Edit date 04/15/97]
4/16/97	18	MINUTES: before Mag Judge Thomas C. Mummert Rule 16 Conference held on 4/16/97 court reporter: Laura Wildermuth; proceedings started: 9:00 – ended: 9:20 (jwj) [Entry date 04/22/97]
4/16/97	19	MOTION by defendant Susan H. Mello for order to unseal Court file number 4:92cv1243 w/memo in support. (jwj) [Entry date 04/22/97]
4/17/97	20	CASE MANAGEMENT ORDER by Mag Judge Thomas C. Mummert; standard(2) track; motion to add party ddl 6/2/97; Disc completion ddl 11/3/97; non-disp motion ddl 11/12/97; disp motion ddl 12/15/97; jury trial 7/20/98; pt comp ddl 7/1/98 (cc: all counsel) (jwj) [Entry date 04/22/97]
4/22/97	21	RESPONSE by plaintiff William H. Viehweg to motion to dismiss amended complaint [17-1], to motion for judgment on the pleadings [17-2], to motion to strike prayer for damages [17-3] (jwj) [Entry date 04/30/97]
4/25/97	22	ORDER by Mag Judge Thomas C. Mummert granting motion for order to unseal Court file number 4:92cv1243 [19-1] insofar as the court file is unsealed for the limited purpose of use by the parties in

		the instant action. All information contained in the file remains confidential and closed for other purposes. The parties shall not disclose any information containd in Case No. 4:92CV1243 to any party or institution. (cc: all counsel) (lgn) [Entry date 05/02/97]
4/30/97	23	NOTICE by counsel for defendant Susan H. Mello; receipt of Document #19 in case number 4:92CV1243 CAS (llw) [Entry date 05/05/97]
5/1/97	24	NOTICE; FILE DUPLICATION RECEIPT for file #4:92CV1243 CAS, entire file copied, picked up & signed for Access Courier (llw) [Entry date 05/05/97]
5/9/97	25	MOTION by defendant Susan H. Mello for sanctions in connections with the filing of the amended complaint w/memo in support attached (jwj) [Entry date 05/12/97]
5/9/97	26	REPLY by defendant Susan H. Mello to response to motion to dismiss amended complaint [17-1] (LEAVE TO FILE GRANTED TCM) (jwj) [Entry date 05/12/97]
5/14/97	27	RESPONSE in opposition by plaintiff William H. Viehweg to motion for sanctions in connections with the filing of the amended complaint [25-1] (llw) [Entry date 05/19/97]
6/10/97	28	MOTION by defendant Susan H. Mello to strike Rule 11 motion of pltf and opposition w/attachments (kcm) [Entry date 06/11/97] [Edit date 06/11/97]

6/12/97	--	GENERIC SCHEDULING EVENT; Motion to Add party ddl satisfied (csg)
6/24/97	29	MOTION w/memo in sppt by plaintiff William H. Viehweg for sanctions pre rule 11 (lsd) [Entry date 06/26/97]
6/24/97	30	MOTION by plaintiff William H. Viehweg for R26 protective order (lsd) [Entry date 06/26/97]
6/27/97	31	MOTION by defendant Susan H. Mello for order to determin sufficiency on first request for admission w/attached EXS 1-3 & Memo in Support (llw) [Entry date 06/30/97]
6/27/97	32	MOTION by defendant Susan H. Mello to Strike pltfs motion for rule 26 protective order (llw) [Entry date 06/30/97]
6/27/97	32	RESPONSE by defendant Susan H. Mello to motion for R26 protective order [30-1] w/attached EX A (llw) [Entry date 06/30/97]
6/27/97	33	MOTION by defendant Susan H. Mello to strike rule 11 motion (llw) [Entry date 06/30/97]
6/27/97	33	RESPONSE by defendant Susan H. Mello to motion for sanctions per rule 11 [29-1] w/attached EX A (llw) [Entry date 06/30/97]
7/3/97	34	MOTION by defendant Susan H. Mello to compel production w/attached memo in support or her motion (jwj) [Entry date 07/07/97]

7/9/97	35	MOTION by defendant Susan H. Mello to compel answers to first set of interrogatoriestached memo in support and attached exhibits A-D (jwj) [Entry date 07/10/97]
7/9/97	36	MOTION by plaintiff William H. Viehweg for protective order sanctioning defendant, for order holding discovery in abeyance, and to for appointment of counsel w/attached exhibits 1-14 (jwj) [Entry date 07/10/97]
7/11/97	37	MOTION with memo in sppt by defendant Susan H. Mello to compel, for sanctions for failure to comply with 26(a) (2) experts (lsd) [Entry date 07/15/97]
7/16/97	38	MOTION by defendant Susan H. Mello to strike Pltf's motion for protective order, sanctioning deft, holsing desivoery in abeyance and apptg. counsel for pltf. (lsd) [Entry date 07/21/97]
7/16/97	38	RESPONSE by defendant Susan H. Mello to motion for protective order sanctioning defendant [36-1], to motion for order holding discovery in abeyance [36-2], to motion for appointment of counsel [36-3], to motion to compel answers to first set of interrogatories [35-1] (lsd) [Entry date 07/21/97]
7/23/97	39	REPLY by plaintiff William H. Viehweg to response to motion for protective order sanctioning defendant [36-1] w/attached memo to clerk. (jwj)
7/23/97	39	RESPONSE by plaintiff William H. Viehweg to motion for protective order sanctioning defendant [36-1] (jwj) [Entry date 07/24/97]

7/31/97	40	MOTION by defendant Susan H. Mello for order for rule 35 exam w/attached memo in support and exhibits A-B (jwj) [Entry date 08/04/97]
8/8/97	41	RESPONSE by plaintiff William H. Viehweg to motion for order for rule 35 exam [40-1] (jwj) [Entry date 08/11/97]
9/4/97	42	MOTION by plaintiff William H. Viehweg for order for revocation of Case Management Order of 4/17/97 (lsd) [Entry date 09/09/97]
9/8/97	43	RESPONSE by defendant Susan H. Mello to motion for order for revocation of Case Management Order of 4/17/97 [42-1] (lsd) [Entry date 09/09/97]
9/11/97	44	REPLY by plaintiff William H. Viehweg to response to motion for order for revocation of Case Management Order of 4/17/97 [42-1] (jwj) [Entry date 09/12/97]
9/15/97	45	MOTION by defendant Susan H. Mello for leave to delay filing of expert witnesse report (lsd) [Entry date 09/25/97]
9/18/97	46	RESPONSE by plaintiff William H. Viehweg to motion for leave to delay filing of expert witnesse report [45-1] (lsd) [Entry date 09/25/97]
9/25/97	47	MOTION by plaintiff William H. Viehweg to disqualify defendant Susan H. Mello's counsel, the law firm of Moser and Marsalek, P.C. with attached exhibits 1-7 and memo of law in support (kks) [Entry date 09/30/97]

9/30/97	48	MOTION by defendant Susan H. Mello for protective order (lsd) [Entry date 10/03/97]
9/30/97	49	RESPONSE by defendant Susan H. Mello to motion to disqualify defendant Susan H. Mello's counsel, the law firm of Moser and Marsalek, P.C. [47-1] (lsd) [Entry date 10/03/97]
9/30/97	49	MOTION by defendant Susan H. Mello for Rule 11 sanctions (llw) [Entry date 10/08/97]
10/1/97	50	MOTION by plaintiff William H. Viehweg for protective order, & to quash dft's notice of deposition w/Memo in Support (llw) [Entry date 10/08/97]
10/7/97	51	MOTION by defendant Susan H. Mello to compel (llw) [Entry date 10/08/97]
10/7/97	52	MOTION by defendant Susan H. Mello to quash, and for protective order EX A-B, pltfs EX 1, 2 (llw) [Entry date 10/08/97]
10/7/97	53	RESPONSE in Opposition by plaintiff William H. Viehweg to motion for protective order [48-1] requesting dismissal of the motion (llw) [Entry date 10/08/97]
10/7/97	54	REPLY by plaintiff William H. Viehweg to response to motion to disqualify defendant Susan H. Mello's counsel, the law firm of Moser and Marsalek, P.C. [47-1] (llw) [Entry date 10/08/97]
10/7/97	55	RESPONSE by plaintiff William H. Viehweg to motion for Rule 11 sanctions [49-1] (llw) [Entry date 10/08/97]

10/8/97	56	ORDER by Mag Judge Thomas C. Mummert denying motion for protective order [50-1], denying motion to quash dft's notice of deposition [50-2], denying motion to disqualify defendant Susan H. Mello's counsel, the law firm of Moser and Marsalek, P.C. [47-1] (cc: all counsel) (llw) [Entry date 10/10/97]
10/8/97	57	ORDER by Mag Judge Thomas C. Mummert denying as moot the motion to dismiss plaintiffs compliant for failure to state a claim [7-1] (cc: all counsel) (llw) [Entry date 10-10-97]
10/8/97	--	MOTION by plaintiff to dismiss (lsd) [Entry date 10/23/97] (Edit date 10/23/97]
10/8/97	--	RESPONSE by plaintiff William H. Viehweg to motion to quash [52-1], to motion for protective order [52-2] (response is included in pleading "Plaintiff's motion to dismiss or in the alternative respl. to motion to quahs & for protective order" (lsd) [Entry date 10/23/97]
10/8/97	--	RESPONSE (Motion to dismiss motion to compel) by plaintiff William H. Viehweg to motion to compel [51-1] (lsd) [Entry date 10/23/97]
10/10/97	58	MOTION by plaintiff William H. Viehweg for protective order, and for hearing with oral testimony regarding pltf's deposition (llw) [Entry date 10/14/97]
10/10/97	59	Supplemental MOTION by plaintiff William H. Viehweg to quash Notice of Deposition, and for protective order

w/attached EXS A-B (llw) [Entry date 10/14/97]

10/14/97 60 MOTION by defendant Susan H. Mello for sanctions per Rule 37 w/attached Memo in Support & EXS A & 1-2 (llw)

10/15/97 61 MOTION by plaintiff William H. Viehweg to quash subpoena of Jack Vasquez (lsd) [Entry date 10/23/97]

10/15/97 62 MOTION by plaintiff William H. Viehweg to quash subpoena dir. to Thos. Croft (lsd) [Entry date 10/23/97]

10/15/97 63 MOTION by plaintiff William H. Viehweg to quash subpoena dir. to Grace Fuentes (lsd) [Entry date 10/23/97]

10/15/97 64 MOTION by plaintiff William H. Viehweg to quash deft's entry of appearance (lsd) [Entry date 10/23/97]

10/15/97 65 RESPONSE by plaintiff William H. Viehweg to supplemental motion to quash notice of deposition and for protective order [52-1] (lsd) [Entry date 10/23/97]

10/15/97 65 MOTION by plaintiff William H. Viehweg for hearing/oral argument (lsd) [Entry date 10/23/97]

10/24/97 66 RESPONSE by plaintiff William H. Viehweg to motion for sanctions per Rule 37 [60-1] (lsd) (Entry date 10/27/97]

10/31/97 67 MOTION by plaintiff William H. Viehweg for Rule 37 order for sanctions for failure to appear at deposition & compelling dft's presence at future deposition w/Memo of Law in Support (llw) [Entry date 11/03/97]

11/3/97	68	RESPONSE by defendant Susan H. Mello to motion for Rule 37 order for sanctions for failure to appear at deposition & compelling dft's presence at future deposition [67-1] (lsd) [Entry date 11/06/97]
11/5/97	69	REPLY by plaintiff William H. Viehweg to response to motion for Rule 37 order for sanctions for failure to appear at deposition & compelling dft's presence at future deposition [67-1] (lsd) [Entry date 11/06/97]
11/6/97	70	JOINT MOTION w/memo in sppt by movant Grace E. Fuentes, movant Lloyd J. Vasquez Jr. to quash subpoenas (lsd)
11/6/97	71	MOTION by defendant Susan H. Mello for summary judgment w/Memo in Support, affidavit of Susan Mello, and EXS A-M (llw) [Entry date 11/07/97]
11/7/97	72	AMENDED JOINT MOTION by movant Grace E. Fuentes, movant Lloyd J. Vasquez Jr. to quash subpoenas served on the movants (llw)
11/10/97	73	ORDER by Mag Judge Thomas C. Mummert setting hearing on Motion for R26 protective order [30-1] 2:00 11/17/97 to be held in the Courtroom (cc: aal counsel) (llw)
11/10/97	74	MOTION by plaintiff William H. Viehweg for sanctions quashing four subpoenas, and for other relief for CMO & Rule violations w/Memo in support & EXS 1-9 (llw) [Entry date 11/12/97] [Edit date 11/12/97]

11/10/97 75 RESPONSE in opposition by defendant Susan H. Mello to motion to quash subpoenas served on the movants [72-1], to motion to quash subpoenas [70-1] w/attached EXS A-F (llw) [Entry date 11/12/97]

11/12/97 76 MOTION by plaintiff William H. Viehweg for sanctions quashing service of interrogatories for CMO violations, and for protective order Per Rule 26 w/attached EX 1 (llw) [Entry date 11/14/97]

11/13/97 77 RESPONSE in opposition by defendant Susan H. Mello to motion for sanctions quashing four subpoenas [74-1] (llw) [Entry date 11/14/97]

11/17/97 78 ATTORNEY APPEARANCE for defendant Sustn H. Mello by Joseph H. Mueller (jwj) [Entry date 11/18/97]

11/18/97 79 MINUTES: before Mag Judge Thomas C. Mummert denying motion for sanctions quashing four subpoenas [74-1], denying motion for sanctions quashing service of interrogatories for CMO violations [76-1], denying motion for Rule 37 order for sanctions for failure to appear at deposition & compelling dft's presence at future deposition [67-1], denying motion for sanctions per Rule 37 [60-1], denying motion for Rule 11 sanctions [49-1], denying motion to strike Pltf's motion for protective order, sanctioning deft, holsing desivoery in abeyance and apptg. counsel for pltf. [38-1], denying motion for sanctions for failure to comply with 26(A) (2) experts [37-2], denying motion for

appointment of counsel [36-3], denying motion to strike rule 11 motion [33-1], denying motion to strike pltfs motion for rule 26 protective order [32-1], denying motion for sanctions pre rule 11 [29-1], denying motion to strike Rule 11 motion of pltf and opposition [28-1], denying motion for sanctions in connections with the filing of the amended complaint [25-1] order to issue, Parties ordered to stop filing frivolous motoins or risk imposition of sanctions, court reporter: ldreon; proceedings started: 2:00 – ended: 2:40 (jwj)

11/25/97 80 MOTION by Joseph H. Mueller, attorney for defendant Susan H. Mello to withdraw as her attorney (glf) [Entr date 12/03/97]

12/2/97 – RULED DOCUMENT by Mag Judge Thomas C. Mummert granting motion to withdraw as her attorney [80-1] attorney Joseph H. Mueller for Susan H. Mello (cc: all counsel) (glf) [Entry date 12/03/97]

12/2/97 81 MEMORANDUM AND ORDER: by Mag Judge Thomas C. Mummert denying motion for R26 protective order [30-1], denying motion for protective order sanctioning defendant [36-1], denying motion for order holding discovery in abeyance [36-2], denying motion for appointment of counsel [36-3], denying motion for order for revocation of Case Management Order of 4/17/97]42-1], denying motion to disqualify defendant Susan H. Mello's counsel, the law firm of Moser and Marsalek, P.C. [47-1], denying motion to dismiss [0-1], denying motion for protective

order [58-1], denying motion for hearing with oral testimony [58-2], denying motion to quash subpoena of Jack Vasquez [61-1] denying motion to quash subpoena dir, to Thos. Croft [62-1], denying motion to Quash subpoena dir, to Grace Fuentes [63-1], denying motion to quash deft's entry of appearance [64-1], denying motion for hearing/oral argument [65-1], denying motion for protective order Per Rule 26 [76-2], denying motion to quash subpoenas served on the movants [72-1], denying motion to quash subpoenas [70-1], granting in part and denying in part motion for order to determine sufficiency on first request for admission [31-1], denying motion to compel answers to first set of interrogatories [35-1], denying motion for protective order [48-1], denying motion to quash [52-1], denying motion for protective order [52-2], denying motion to quash Notice of Deposition [59-1], granting motion for leave to delay filing of expert witnesse report [45-1], denying motion to compel [51-1] (cc: all counsel) (glf) [Entry date 12/03/97]

12/5/97 82 MOTION by counsel for defendant Susan H. Mello to withdraw Brian Plegge as attorney of record (llw) [Entry date 12/09/97]

12/5/97 - RULED DOCUMENT by Mag Judge Thomas C. Mummert granting motion to withdraw Brian Plegge as attorney of record [82-1] & withdrawing attorney Brian R. Plegge for Susan H. Mello

		LEAVE GRANTED (cc: all counsel) (llw) [Entry date 12/09/97]
12/5/97	83	ORDER by Mag Judge Thomas C. Mummert The Court on ots own motion hereby orders that all depositions in this case, including those of the parties are to be completed on or before 1/30/98 at 5:00 pm in the afternoon. The conditions for the parties depositions delineated during the 11/17/97 motion hearing remain in full force & effect (cc: all counsel) (llw) [Entry date 12/09/97]
12/12/97	-	TAPE ORDER - for proceedings of Motion Hearing held 11/17/97, recorded by Court Reporter L. Dreon/ECRO, as ordered by Connie Payne Brinker Doyen (lsd)
12/12/97	84	ATTORNEY APPEARANCE for defendant Susan H. Mello by Scott C. Harper of the fir of Brinker & Doyen (lsd) [Entry date 12/15/97]
12/12/97	85	RECEIPT # s98-001999 in the amount of $20.50 for photocopies and copy of audio tape of hrg of 11/17/97 (lsd) [Entry date 12/15/97]
12/15/97	86	MOTION by defendant Susan H. Mello to dismiss for lack of Subject Matter jurisdiction w/ Memorandum in Support and Exhibits A-B3 attached (CMA) [Entry date 12/16/97]
12/15/97	87	MOTION by plaintiff William H. Viehweg to strike defendants motion and memorandum to dismiss for lack of subject matter jurisdiction (jwj) [Entry date 12/19/97]

12/15/97 - GENERIC SCHEDULING EVENT; Discovery Completion ddl satisfied; Dispositive Motion ddl satisfied; Non-disp Motion ddl satisfied (csg) [Entry date 01/08/98]

12/17/97 88 ORDER by Mag Judge Thomas C. Mummert denying motion to strike defendants motion and memorandum to dismiss for lack of subject matter jurisdiction [87-1] (cc: all counsel) (jwj) [Entry date 12/19/97]

1/8/98 89 MOTION by defendant Susan H. Mello to dismiss, and to strike based on pltf's December 1997 answers to interrogatories w/attached EXS A-D (llw) [Entry date 01/09/98]

1/8/98 90 MOTION by defendant Susan H. Mello for order sealing dft's deposition transcrippt, videotape deposition w/Memo in Support attached (llw) [Entry date 01/09/98] [Edit date 01/14/98]

1/8/98 90 MOTION by defendant Susan H. Mello for order sealing pltfs response to dft's motion for summary jgm w/Memo in Support (llw) [Entry date 01/14/98] [Edit date 01/14/98]

1/12/98 91 MOTION by plaintiff William H. Viehweg to quash, to strike deft's expert witness report with attachments (jwj) [Entry date 01/13/98]

1/12/98 92 RESPONSE by plaintiff William H. Viehweg to motion for order sealing dft's deposition transcrippt, videotape deposition [90-1] (jwj) [Entry date 01/13/98] [Edit date 01/14/98]

1/12/98	92	RESPONSE by plaintiff William H. Viehweg to motion for order sealing pltfs response to dft's motion for summary jgm [90-1] (llw) [Entry date 01/14/98] [Edit date 01/14/98]
1/13/98	93	RULED DOCUMENT by Mag Judge Thomas C. Mummert granting motion for order sealing dft's deposition transcrippt, videotape deposition [90-1]; LEAVE TO FILE UNDER SEAL GRANTED (cc: all counsel) (llw) [Entry date 01/14/98]
1/13/98	94	TRANSCRIPT filed from deposition of Susan Mello of 12/30/97; court reporter: Richard Schroeder (llw) [Entry date 01/14/98]
1/13/98	94	SEALED DOCUMENT by defendant Susan H. Mello [94-1] (llw) [Entry date 01/14/98]
1/14/98	95	RESPONSE by plaintiff William H. Viehweg to motion for summary judgment [71-1] with attached affidavit of William H. Viehwig and deposition (jwj) [Entry date 01/15/98]
1/16/98	96	RESPONSE by defendant Susan H. Mello to motion to quash [91-1], to motion to strike deft's expert witness report [91-2] w/Attached EXS A-E (llw) [Entry date 01/20/98]
1/21/98	97	REPLY by defendant Susan H. Mello to response to motion for summary judgment [71-1] th attached exhibits and aff (lsd) [Entry date 01/22/98]
1/21/98	98	AFFIDAVIT of Susan Mello in support of Reply Memo in sppt of mtn for Summary

judgment re [97-1] (lsd) [Entry date 01/22/98]

1/22/98 99 REPLY by plaintiff William H. Viehweg to response to motion to quash [91-1], motion to strike deft's expert witness report [91-2] (lsd) [Entry date 01/23/98]

1/26/98 – SUPPLEMENTAL exhibit to affidavit by defendant Susan H. Mello re transcript transcript [94-1] (llw) [Entry date 01/28/98]

2/3/98 100 MOTION by plaintiff William H. Viehweg for leave to file second amended complaint with memo in support and attached proposed complaint (jwj) [Entry date 02/04/98]

2/11/98 101 RESPONSE by defendant Susan H. Mello to motion for leave to file second amended complaint [100-1] (jwj) [Entry date 02/12/98]

2/17/98 102 REPLY by plaintiff William H. Viehweg to response to motion for leave to file second amended complaint [100-1] (jwj)

3/30/98 103 ORDER by Mag Judge Thomas C. Mummert denying as moot the motion for order for rule 35 exam [40-1], denying as moot the motion to compel [37-1], denying motion without prejudice to compel production [34-1], granting motion to dismiss amended complaint as to Count III [17-1], denying in all other respects without prejudice the motion for judgment on the pleadings [17-2] (cc: all counsel) (llw)

3/31/98 104 MOTION by defendant Susan H. Mello for leave to formally supplement the her

		Motion for summary judgment w/Memo in Support & proposed supplement attached to motion (llw) [Entry date 04/01/98] [Edit date 04/03/98]
4/2/98	–	RULED DOCUMENT by Mag Judge Thomas C. Mummert granting motion for leave to formally supplement the her Motion for summary judgment [104-1] LEAVE GRANTED (cc: all counsel) (llw) [Entry date 04/03/98]
4/2/98	104	SUPPLEMENTAL by defendant Susan H. Mello re motion for summary judgment [71-1] see attachment to the Motion to Supplement (also Doc# 104) [Entry date 04/03/98]
4/9/98	105	SUPPLEMENTAL MOTION w/memo in sppt by defendant Susan H. Mello for summary judgment (lsd) [Entry date 04/14/98]
4/9/98	106	RESPONSE by plaintiff William H. Viehweg to motion for summary judgment [105-1] (lsd) [Entry date 04/14/98]
4/9/98	107	ANSWER by defendant Susan H. Mello to FIRST AMENDED COMPLAINT [13-1] (fld. 10 w/in days of ruling on mtn. to dismiss) (lsd) [Entry date 04/14/98] [Edit date 04/14/98]
4/16/98	108	REPLY by defendant Susan H. Mello to response to motion for summary judgment [105-1] (jwj) [Entry date 04/17/98]
5/6/98	109	MOTION by plaintiff William H. Viehweg for order of revision of the March 30, 1998 order dismissing Count III of the

amended complaint (jwj) [Entry date 05/07/98]

5/8/98 110 MOTION w/attachments by plaintiff William H. Viehweg for order to correct the written record of minutes and 12/2/97 court order of 11/17/97 hearing (lsd) [Entry date 05/11/98]

5/11/98 111 RESPONSE in opposition by plaintiff William H. Viehweg to motion for order of revision of the March 30, 1998 order dismissing Count III of the amended complaint [109-1] (llw) [Entry date 05/12/98]

5/15/98 112 REPLY in opposition by plaintiff William H. Viehweg to response to motion for order of revision of the March 30, 1998 order dismissing Count III of the amended complaint [109-1] (llw) [Entry date 05/18/98]

5/19/98 113 MOTION by plaintiff William H. Viehweg to disqualify attorneys Harper & Speiser & the Law firm of Brinker & Doyen w/pltfs EX 1 attached (llw)

5/26/98 114 MEMORANDUM AND ORDER: by Mag Judge Thomas C. Mummert granting motion for order of revision of the March 30, 1998 order dismissing Count III of the amended complaint [109-1], denying motion for leave to file second amended complaint [100-1], granting motion for summary judgment [71-1] denying motion to disqualify attorneys Harper & Speiser & the Law firm of Brinker & Doyen [113-1], denying motion for order to correct the written record of minutes and 12/2/97 court order of 11/17/97

hearing [110-1], denying motion for summary judgment [105-1], denying motion to quash [91-1], denying motion to strike deft's expert witness report [91-2], denying motion to dismiss [89-1], denying motion to strike based on pltf's December 1997 answers to interrogatories [89-2], denying motion for order sealing pltfs response to dft's motion for summary jgm [90-1], denying motion to dismiss for lack of Subject Matter jurisdiction [86-1], denying motion for other relief for CMO & Rule violations [74-2] granting motion for order sealing dft's deposition transcrippt, videotape deposition [90-1], granting motion for order sealing pltfs response to dft's motion for summary jgm [90-1] IT IS FURTHER ORDERED that defendant Susan Mello's Motion motion to seal the transcript & videotape of her deposition; The Clerks Office is directed to seal the transcript of her deposition docketed as number 94 & the copy of the transcript attached as an exhibit to pltf's pleading docketed as number 95 (cc: all counsel) (llw) [Entry date 05/27/98] [Edit date 05/27/98]

5/26/98 115 JUDGMENT: by Mag Judge Thomas C. Mummert for defendant Susan H. Mello against plaintiff William H. Viehweg and terminating case (cc: all counsel) (llw) [Entry date 05/27/98]

5/26/98 – SEALED DOCUMENT [95-1] (llw) [Entry date 05/27/98]

5/26/98 116 MOTION by defendant Susan H. Mello to extend time to file response to plaintiff's

		motion to disqualify up to and including 5/29/98 (bak) [Entry date 06/01/98]
5/28/98	116	RULED DOCUMENT by Mag Judge Thomas C. Mummert denying as moot motion to extend time to file response to plaintiff's to disqualify up to and including 5/29/98 [116-1] (cc: all counsel) (bak) [Entry date 06/01/98]
6/15/98	117	BILL OF COST SUBMITTED by defendant Susan H. Mello; Objection ddl 6/29/98 re [115-2] (lsd) [Entry date 06/16/98]
6/24/98	118	NOTICE OF APPEAL filed by plaintiff William H. Viehweg re: the District Court decision; [115-2], [114-1] fee; $105.00 (llw)
6/24/98	119	RECEIPT #S98-007512 in the amount of $105.00 for Appeal Fee (llw)
6/24/98	–	NOTICE by counsel for defendant Susan H. Mello of approval of itemization of costs (llw) [Entry date 06/26/98]
6/25/98	–	DELIVERED TO USCA – 1 Civil Appeal Cover Sheet, 2 Certified Copies of Notice of Appeal, 2 Certified Copies of Clerk's Docket entries and 2 copies of JUDGMENT/MEMORANDUM & ORDER (TCM) fld. 06/24/98, cc: Notice of appeal to Judge Mummert. cc: Notice of appeal, clerk's docket entries and USCA letter to parties. (mef)
6/30/98	120	OBJECTIONS by plaintiff William H. Viehweg to Bill of costs w/attached EXS 1-4 (llw) [Entry date 07/01/98]
6/30/98	121	CERTIFICATE of service by plaintiff William H. Viehweg; w/attached Form A (llw) [Entry date 07/01/98]

7/9/98	122	NOTIFICATION AND BRIEFING SCHEDULE (USCA) FILED USCA #: 98-2732 Transcript Due: 8/18/98 Briefs Due: 10/15/98 (bak) [Entry date 07/15/98]
7/9/98	123	REPLY MEMO IN SUPPORT OF BILL OF COSTS by defendant Susan H. Mello re [120-1], re [117-1] (bak) [Entry date 07/15/98]
7/9/98	124	NOTIFICATION AND BRIEFING SCHEDULE (USCA) FILED USCA #: 98-2732 Transcript Due: 8/18/98 Briefs Due: 10/15/98 (bak) [Entry date 07/15/98]
7/9/98	125	Transmittal Acknowledgment from USCA 4 file volumes, transcript volumes USCA number: 98-2732 as to defendant: Susan Mello (bak) [Entry date 07/15/98]
8/12/98	–	GENERIC SCHEDULING EVENT; Objection ddl satisfied; objections to bill of costs filled 6/30/98 (txc)
8/14/98	126	TRANSCRIPT filed from Rule 16 Conference of April 16, 1997; court reporter: Laura Wildermuth (txc) [Entry date 08/17/98]
8/14/98	127	TRANSCRIPT filed from Pre-Trial Motion Hearing of November 17, 1997; court reporter: Laura Wildermuth (txc) [Entry date 08/17/98]
8/17/98	–	TRANSCRIPT ORDER – for proceedings of Rule 16 Conference (4/16/97) and Pre-Trial Motion Hearing (11/17/97), recorded by Court Reporters Laura Wildermuth (Rule 16) & Laura Dreon (Pre-

Trial Conf.), as ordered by William Viehweg (txc) [Edit date 08/17/98]

8/21/98 128 Transmittal Acknowledgment from USCA 2 transcript volumes USCA number: 98-2732 as to defendant: Susan H. Mello (txc) [Entry date 08/24/98]

10/14/98 – FILE RETURNED # of volumes; 5 re appeal [118-1] (llw) [Entry date 10/16/98]

10/15/98 129 MEMORANDUM AND ORDER: by Mag Judge Thomas C. Mummert IT IS HEREBY ORDERED that pltf's objections to deft's Bill of Costs is granted in part and denied in part. FURTHER ORDERED that the following costs shall be and are taxed against pltf.: Fees of court reporter: $163.30; Fees for witnesses; $90.00 TOTAL: $253.30. IF IS FINALLY ORDERED that the clerk of the court shall tax in favor of deft Susan Mello and against pltf. Wm. Viehweg costs in the total amt of $253.30 granting motion BILL OF COST SUBMITTED [117-1] granting bill of costs response [120-1] (cc: all counsel) (lsd)

10/15/98 – COSTS taxed for defendant Susan H. Mello in the amount of $253.30 against plaintiff William H. Viehweg (cc: all counsel) (lsd)

10/16/98 – ENTIRE FILE SENT TO (USCA) – # of Volumes; 4 plus an expandable file folder (llw)

11/4/98 130 Transmittal Acknowledgment from USCA 5 file volumes, transcript volumes USCA number; 98-2732 as to defendant: Mello (txc) [Entry date 11/05/98]

9/20/99	131	Transmittal acknowledgment from USCA: Sealed Docket #94 (txc)
9/23/99	132	FILE RETURNED re appeal [118-1] (Sealed Docket #94) (txc) [Entry date 09/24/99]
10/19/99	133	Opinion from USCA on USCA number 98-2732 Opinion of USCA: affirm & deny all pending motions on appeal (llw) [Entry date 10/20/99]
12/15/99	134	ORDER FROM USCA copy filed USCA number: 98-2732 petition for rehearing by the appellant has been considered by the court and is denied. (lsd)
1/26/00	135	MOTION by defendant Susan H. Mello to seal the Court file, & for protective order w/attached EXS A-G, and Memo in Support (llw) [Entry date 01/27/00]
1/27/00	136	MANDATE W/JUDGMENT from (USCA) affirming the decision of the District Court [118-1] USCA number: 98-2732 EMSL (cc: all counsel) (llw) [Entry date 01/28/00]
2/3/00	137	RESPONSE by plaintiff William H. Viehweg to motion to seal the Court file [135-1], to motion for protective order [135-2] (txc)
2/7/00	138	LETTER from plaintiff William H. Viehweg (txc) [Entry date 02/09/00]
2/17/00	–	ORDER FROM USCA copy filed USCA number: 98-2732 The appellee's motion to seal the court file is granted. Motion denied in all other aspects. (lsd) [Entry date 03/01/00]

2/28/00	139	MOTION by defendant Susan H. Mello for order allowing oral argument on the motion to seal the court file (llw) [Entry date 02/29/00]
3/27/00	140	FILE RETURNED # of volumes 4, 1 expansion folder, 2 transcripts (llw) [Entry date 03/28/00]